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soever to be done or attempted in the County aforesaid, con-  
and Ordinances aforesaid, made for the common Good of  
people thereof; And with any two or

ices of the Peace, in the said County  
; Commission to them granted as aforesaid) to hear and de-  
Thefts, Trespasses, Riots, Routs, unlawful Assemblies, and all and  
to do herein as to Justice appertaineth, according to the Laws,

HEREOF, We have caused the public Seal of our Province .  
, to be bereunto affixed: WITNESS the mayor



The Government of People of the Massachusetts Bay in New England

~~FOR CELESTINE~~

~~By the Grace of GOD, a Great~~

~~and~~

~~of the~~



To all into whom these Presents shall come, Greeting,

**KNOW YE,** That WE have assigned and constituted, and do by these Presents

assign, constitute and appoint Our Trusty and well-beloved *Benjamin White Esq*

to be one of Our Justices to keep Our Peace in the County of Suffolk, within our Province of the Massachusetts-Bay

And to keep and cause to be kept, the Laws and Ordinances made for the Good of the Peace and for the Conservation of the same, and for the Quiet, Rule and Government of Our People in the said County, in all and every the Articles thereof according to the Force, Form and Effect of the same, and to chastise and punish all Persons offending against the Form of those Laws and Ordinances or any of them in the County aforesaid, as according to the Form of those Laws and Ordinances shall be fit to be done; And to cause to come before him the said *Benjamin White* all those that shall break the Peace, or attempt any Thing against the same, or that shall threaten any of our People in their Persons, or in burning their Houses, to find sufficient Security for the Peace, and for the good Behaviour towards Us and our People; and if they shall refuse to find such Security, then to cause them to be kept safe in Prison until they shall find the same; and to do and perform in the County aforesaid, all and whatsoever, according to the Laws and Ordinances of our said Province, or any of them, a Justice of the Peace may and ought to do and perform *and with any two or more of our Justices of the Peace in the said County* (according to the Tenour of the Commission to them granted) to enquire by the Oaths of good and lawful Men of our said County, by whom the Truth may be better known, of all and all manner of Thefts, Trespasies, Riots, Routs and unlawful Assemblies whatsoever, and all and singular other Misdemeanors and Offences of which by Law Justices of the Peace in their General Sessions may and ought to enquire, by whomsoever or howsoever done or perpetrated, or which shall hereafter happen, howsoever to be done or attempted in the County aforesaid, contrary to the Form of the Laws and Ordinances aforesaid, made for the common Good of our Province aforesaid and the People thereof; *and with any two or more of our Justices of the Peace, in the said County* (according to the Tenour of the Commission to them granted as aforesaid) to hear and determine all and singular the said Thefts, Trespasies, Riots, Routs, unlawful Assemblies, and all and singular other the Premises, and to do herein as to Justice appertaineth, according to the Laws, Statutes and Ordinances aforesaid.

IN TESTIMONY WHEREOF, We have caused the public Seal of our Province of the Massachusetts-Bay aforesaid, to be hereunto affixed: **WITNESS** the major

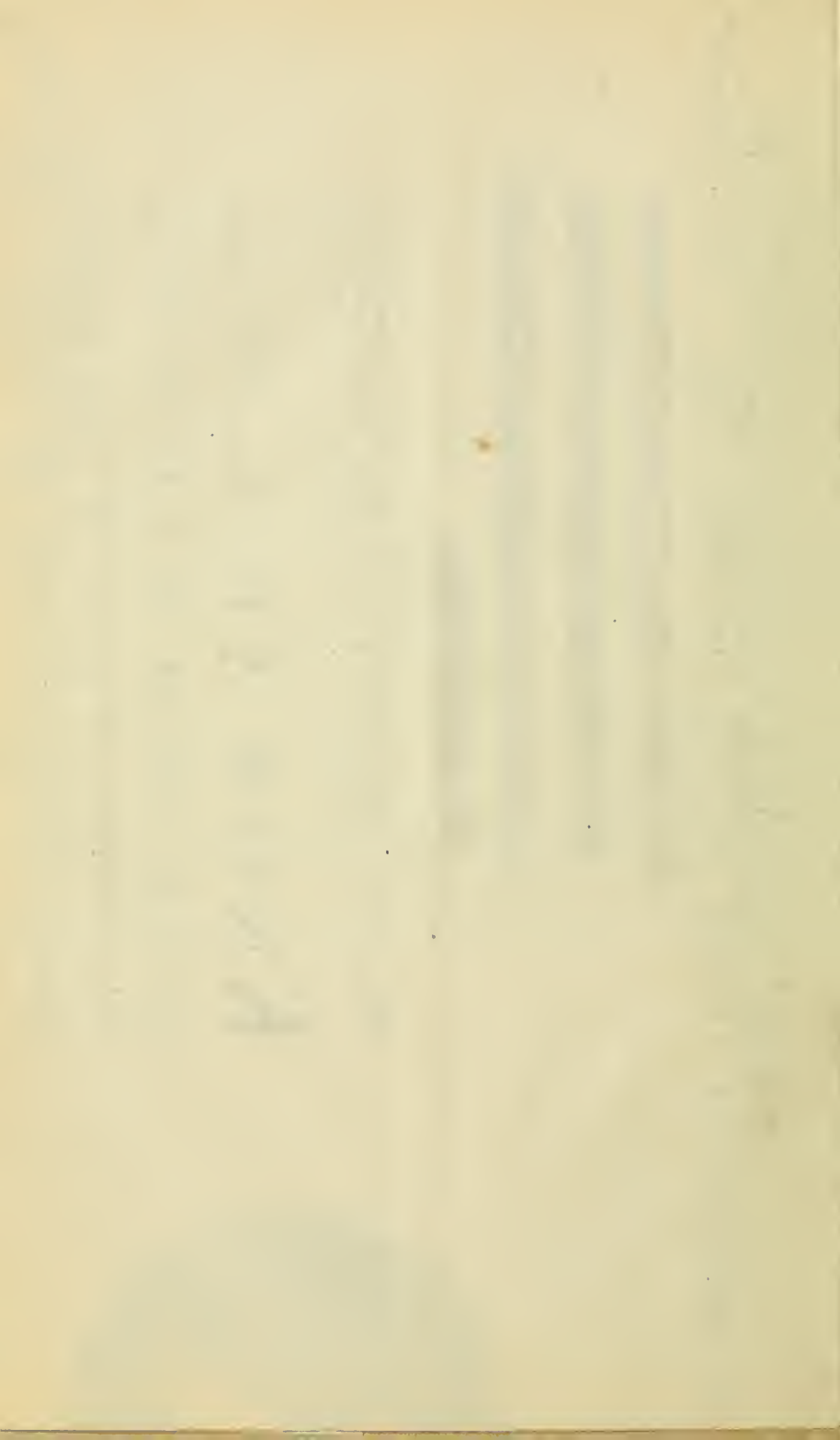
Part of the Council of the said Province, at Watertown, the sixth Day of September, In the year of our LORD, One thousand Seven Hundred & seventy five

By Command of the major part of the Council, with the Advice & Consent of Council  
*Pres. Morton* Esq. & *John Tracy* Esq. Secy

*James Otis*  
*Blumenthal*  
*V. Pomeroy*  
*Col. Crofting*  
*Joseph Green*  
*John Wheelwright*  
*Edw. Tenter*  
*Wm. Hawley*  
*John Fisher*  
*Moses Will*  
*Edw. Taylor*  
*James Shepard*  
*Lincoln*  
*Stilton*  
*Barnes*

*Mr. Burdett's attorney at law is true to the original in my possession -*  
*Proton. Feb 7 1862.*  
*Comptrol. Burdett*

*The may Certify that the above Commission was this day presented to be attested, and a table list of the State Entitled an Act for altering the Seal of Commissioners of the said Province attached Accordingly.*  
*John Tracy* Esq. Secy



## LETTER TO HON. LUTHER BRADISH.

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MORRISANIA, N. Y., Jan. 7, 1862.

HON. LUTHER BRADISH,

*President of the New York Historical Society.*

MY DEAR SIR: I beg leave, through you, to invite the attention of the Society to a subject which seems to me to possess unusual interest to every student of American history.

In the course of my investigations concerning the Constitution of the United States, preparatory to the writing of a history of that instrument, my attention was arrested by the very important series of papers—generally unnoticed by commentators and historians—which, in the early part of 1776, had emanated from several of the colonial governments *de facto*, and had conveyed to the delegations from those colonies, severally, the Instructions under which their respective delegations in the Congress had been expected to act on the question of independence.

Among the colonies from which, apparently, no such Instructions had proceeded,—notwithstanding the fact has been well established that three-fourths of her towns, in regularly convened town-meetings, had particularly instructed their several representatives in the General Court to prepare and transmit such Instructions to the delegates from the colony to the General Congress,—was Massachusetts, whose fearless and eloquent representatives, in case

no such Instructions had been issued to them by the General Court, must have acted on their own responsibility, when, on the second of July, 1776, they jointly cast the vote of Massachusetts in favor of the resolution of American independence.

Notwithstanding the, apparently, well-settled opinion among historical students, that no such Instructions had been adopted and issued by the General Court; and with a respectful disregard of the reasons which were assigned, by one of the most distinguished of our number, for the supposed backwardness of Massachusetts, in thus promoting the cause of American independence, I ventured to doubt that that colony had really so far forgotten herself, as to allow her delegation to support and urge the adoption of the resolution of independence, with no other authority than the *implied* approval of its constituency; and to entertain an abiding confidence, that if it were really true, that the delegation from Massachusetts had received no such Instructions when it cast the vote of that colony in favor of the resolution of the second of July, it possessed, at least, a full equivalent of authority in some other form.

I could readily understand why our own New York— at that time controlled by the great landed interests; represented in the Congress by delegates whose fidelity to the cause of America was, generally, of a questionable character; and whose Provincial Congress, at that time, was led by an avowed and untiring opponent of independence and a republican form of government—had refused to grant authority to her delegation in the Congress to support the resolution of independence; and the consequent silence of that delegation on the second of July,—when the United Colonies, in Congress assembled, “without a dissenting



vote," solemnly resolved "that these United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British crown; and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved,"—is not more of a mystery. All this I could readily understand; but I was *not* equally favored concerning the alleged silence of Massachusetts, the desecration of whose capital town, by the discomfited ministerial troops, was still fresh in the memory of all her inhabitants; whose press, under the patriotic influence of EDES and GILL, was constantly true to its mission; whose people were not a whit the less determined, notwithstanding the enemy had evacuated her territory; whose sentiments were fitly represented in the Congress by the fearlessness and the unanswerable arguments of the two Adamses.

Entertaining these varied opinions, during a recent visit to Boston, I visited the State House for the purpose of searching, among the well-called treasures of the Secretary's office, for a solution of the question. The kind co-operation of my valued friend, GEORGE LIVERMORE, Esq., secured for me a cordial reception; and, after a short examination of the manuscript minutes of the commonwealth, I found an instrument which sets the subject at rest.

After the royal governor of the colony had abandoned his post of duty, and had retired to a more genial climate, the administration of the colonial government was continued by the Council, without changing the style of the government; and all commissions, civil and military, were issued by that body, in the name, and under the authority, of the king of Great Britain, as had been usual in former, and more peaceful days.

It was not long, however, before the inconsistency of such a course became very apparent; and the tendency it had to keep up ideas which were inconsistent with the safety of the government, soon gave the good people of the colony great uneasiness; and a remedy was sought by means of which the officers and people of the colony might not, themselves, be forced to become their own accusers, in a charge of rebellion and treason against a monarch in whose name, and under whose authority they professed to act.

Accordingly, in the spring of 1776, the General Court applied a remedy,—the Council, on the first of May, in that year consummating the enactment of “*AN ACT for Establishing the stile of Commissions which shall hereafter be Issued, and for altering the stile of Writs, Processes, and all Law proceedings within this Colony; and for directing how Recognizances to the Use of this Government, shall for the future be taken and prosecuted.*”

In that act, after declaring, in a preamble, the causes which had induced it to do so, the General Court solemnly enacted that on and after the first day of June next ensuing, all the officers of the colony, civil and military, should receive their authority from, and perform the duties of their several offices in the name of “*THE GOVERNMENT AND PEOPLE OF THE MASSACHUSETTS BAY, IN NEW ENGLAND;*” that on and after that date, the king of Great Britain should no longer be recognized as the source of political authority within that colony; that all commissions which had been issued by the Council, in his name and under his authority, before that date, should cease and determine within a few weeks from that time—on the nineteenth of September, 1776; that all recognizances should thence-

forth be taken and prosecuted in the name of the newly organized sovereign power; and that all actions which had been commenced in the name of the king, should, thenceforth, be prosecuted in the name and for the benefit of "THE GOVERNMENT AND PEOPLE OF THE MASSACHUSETTS BAY IN NEW ENGLAND," in whom, thenceforth, the sovereign authority, *de facto* and *de jure*, was, by the operations of that Act, vested.

On the evening of the same day, while examining the manuscript treasures in the private collection of my friend, J. WINGATE THORNTON, Esq., of Brookline, I also found three commissions which, prior to the passage of the Act to which I have referred, had been issued by the Council of the colony, in the name and by authority of the king. These commissions, of course, had been affected by the provisions of that Act; and their bearers, in accordance with its requirements, had presented them to the Council for re-authorization under the authority of the newly established sovereignty of "THE GOVERNMENT AND PEOPLE OF THE MASSACHUSETTS BAY IN NEW ENGLAND," which, under the provisions of the Act referred to, had succeeded to the former authority of the king. This had been done by the erasure of the usual words "GEORGE THE THIRD, BY THE GRACE OF GOD, OF GREAT BRITAIN, FRANCE, AND IRELAND, KING, DEFENDER OF THE FAITH, &c.," at the head of the commission, and the substitution in their stead by interlineation, of "THE GOVERNMENT AND PEOPLE OF THE MASSACHUSETTS BAY IN NEW ENGLAND;" and by the erasure of the words of the date of the commission, at its foot, as "*In the [sixteenth] year of his reign,*" and the substitution in their stead, by interlineation, of the year of the Christian era, in which the

commission had been issued by the Council. A certificate, over the official signature of the clerk of the Council, verified the change which had been made in the language of the instrument; and continued its authority, in the name of "THE GOVERNMENT AND PEOPLE OF THE MASSACHUSETTS BAY IN NEW ENGLAND," which, after the nineteenth of September succeeding, it would not otherwise have possessed, notwithstanding the impression of the authority of GEORGE III. was borne on the face of the instrument.\*

I may have attributed a greater degree of importance to these instruments than they really merit, yet I cannot forbear suggesting to the Society that therein we have a formal renunciation of the authority of the king, within the territorial limits of Massachusetts, and as formal an assumption of the prerogatives of sovereignty, by "THE GOVERNMENT AND PEOPLE OF THE MASSACHUSETTS BAY IN NEW ENGLAND," on the first day of May, 1776,—two months and two days before the adoption of the resolution of independence, by the United Colonies, in Congress assembled; and that, as MASSACHUSETTS was, thenceforth, *de facto*, an independent and sovereign State, the delegation which she had sent to the Congress of the Confederation, needed no special authority to reiterate, in her name, the Act of Independence and assumption of sovereignty, which, through her legally constituted government, she had, already and directly, adopted and promulgated.

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\* My antiquarian friend, GEORGE ADLARD, Esq., to whom I have submitted the original commissions, here referred to, has suggested the probability that the royal colonial seal which, originally, had been attached to them, was also taken off, by the same authority, in order the more completely to destroy every appearance of royal authority; and the appearance of the mutilated papers gives weight to his view.

I had expected to have placed before you, with this, a carefully prepared and certified copy of the Act to which I have referred, but it has not come to hand. It will be forwarded to you, to be filed with this letter, at an early day.

I have the honor to be

Your obedient servant,

HENRY B. DAWSON.

THE ACT OF MAY 1, 1776,

REFERRED TO IN THE PRECEDING LETTER TO THE  
HON. LUTHER BRADISH.

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[L. s.] In the Year of our Lord One Thousand seven hundred and Seventy six,—

AN ACT for Establishing the stile of Commissions which shall hereafter be Issued and for altering the stile of writs Processes, and all Law proceedings within this Colony and for directing how Recognizances to the Use of this Government shall for the future be taken and prosecuted.

WHEREAS the Petitions of the United Colonies to George the Third King of Great Brittain for the redress of Great and manifest Greveances have not only been rejected but treated with scorn And Contempt And their Opposition to designs evidently formed to reduce them to a state of servile Subjection and their necessary defence against hostile forces Actually Employed to subdue have been declar'd Rebellion. And whereas an unjust war has been Commenc'd Against them which the Commanders of Brittish fleets and Armies have prosecuted and still Continue to prosecute with their utmost Vigour in Cruel manners &



have directed their Vengeance principally against this Colony wasting spoiling and destroying the Country burning Houses and defenceless Towns and Exposing the helpless Inhabitants to every misery;—by which Inhumane and Barbarous treatment by the Commandment of George the Third King of Great Britain &c—the People of this Colony consider themselves greatly Injur'd and have been obliged to have recourse to arms to repel such Injuries. And whereas under such Circumstances the absurdity of Issuing Commissions, Writs Processes and other proceedings in Law and in the Courts of Justice within this Colony in the name and stile of the King of Great Britain is very apparent, And the Tendency it has to keep up Ideas inconsistent with the safety of this Government has given the Good People of this Colony Great Uneasiness.

BE IT THEREFORE enacted by the Council and House of Representatives in General Court Assemble'd and by the Authority of the same that all Civil Commissions Writs and Precepts for Conveneing the General Court or Assembly which shall hereafter be made out in this Colony shall be in the Stile and name of the Government & People of the Massechusetts Bay in New England And all Commissions both Civil & Military shall be Dated in the Year of the Christian era and shall not bear the date of the Year of the Reign of any King or Queen of Great Britain.

And that all writs Processes and Proceedings in Law And in any of the Courts of Justice in this Colony which have been used & Accustomed or by any of the Laws of this Colony are Required to be Issued used or Practiced in Law and in Any of the Courts of Justice in this Colony

in the name and stile of the King of Great Brittain France and Ireland Defender of the faith &c or in any other words Implying or Intending the same shall from and after the first Day of June One thousand seven hundred and seventy six be made Issued Used & Practiced in the name and stile of the Government & People of the Massachusetts Bay in New England and no other and shall bear Date of the Year of the Christian Æra and shall not bear the Date of the Year of the Reign of any King or Queen of Great Brittain Untill some recommendation of the American Congress or Act order or Resolve of a General American Legislature or of the Legislature of this Colony shall be made and passed otherwise directing and Prescribing.

AND BE IT ENACTED that all Commissions Civil and Military which have been Issued by the major part of the Council of this Colony sence the nineteenth day of September One Thousand seven hundred and seventy five shall have the same force and Effect as if this Act had not been made the stile and Date therein notwithstanding Untill the nineteenth day of September One Thousand seven hundred & seventy six & no longer.

PROVIDED NEVERTHELESS that when any such Commissions shall be brought to the Council of this Colony to be made Conformable to the Stile and Date by this Act Required for Isuing Commissions hereafter the Council are hereby Impowered & Directed to Cause the same to be done.

AND BE IT FURTHER ENACTED that all Recognisances that heretofore have been used and Accustomed to be taken to the King of Great Brittain by the Stile and Title of our Sovereign Lord the King shall from and after the first day

of June One thousand seven hundred and seventy six be taken to the Government & People of the Massechusetts Bay in New England and when a scire facias or other Legal Process shall be Issued thereon Against the Recognizor or Recognisors they shall be in the name and behalf of the said Government and People. And when Judgment shall be rendered thereon the money Recovered & Levied shall be paid into the treasury of this Colony for the use of the same.

AND BE IT FURTHER ENACTED that all Suits upon Recognizances which have been heretofore taken within this Colony to the King of Great Brittain under any name Character or form of words whatsoever that have been or that may be hereafter forfeited (if any Suits should be brought thereon) shall from and after the said first day of June be Commenced & prosecuted in the name and behalf of the Government & People of the Massechusetts Bay in New England and not in the name of the said King And the Money Recovered and Levied on such Suits shall be likewise paid into the Treasury of this Colony for the use and Benefit of the said People.

In the house of Representative's May 1, 1776 This engrossed bill having had three several readings passed to be Enacted

SAM<sup>l</sup>. FREEMAN, Speak<sup>r</sup> P. T.

In Council May 1<sup>st</sup> 1776.

This Engrossed Bill having had two several Readings passed to be enacted

PEREZ MORTON D<sup>y</sup> Sec<sup>r</sup>.

WE consent to the enacting of this Bill

|               |                         |                |
|---------------|-------------------------|----------------|
| JAMES OTIS    | T CUSHING               |                |
| W SEVER       | JED <sup>n</sup> FOSTER | JAMES PRESCOTT |
| B GREENLEAF   | ELDAD TAYLOR            | MICHAEL FARLEY |
| W SPOONER     | MOSES GILL              |                |
| CALEB CUSHING | S HOLTEN                |                |
| J WINTHROP    | B LINCOLN               |                |
| B CHADBOURN   |                         |                |

SECRETARY'S OFFICE, BOSTON,  
January 31, 1862.

A true copy of the original.

WITNESS the Seal of the Commonwealth.

[L. S.]

OLIVER WARNER,  
Secretary of the Commonwealth.









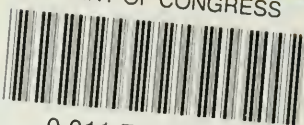




1877



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